

## REMARKS/ARGUMENTS

This application has been reviewed in light of the non-final Office Action mailed on June 7, 2010. Claims 1-8 and 11-24 are pending in the application with Claims 1, 18, 23, and 24 being in independent form. Claims 9 and 10 have been previously cancelled. By the present amendment, Claims 1, 2, 5, 18, 19, 23, and 24 have been amended. No new matter or issues are believed to be introduced by the amendments.

Claims 1-8, 11-16, and 18-24 were rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Van Heeswyk (U.S. Patent No. 6,765,883) in view of Shinnarajah et al. (U.S. Application No. 2004/0008679). Applicants respectfully traverse the rejection.

Claim 1, recites, *inter alia*, as follows:

“...determining, via the primary station, **an estimated level of interest** by users of secondary stations...

indicating, via a secondary station of the plurality of secondary stations, the estimated level of interest by transmitting a predetermined signal in a preselected one of the plurality of random access slots, **the estimated level of interest based on at least a threshold value...**” (emphasis added)

The applied combination of Van Heeswyk and Shinnarajah fails to disclose and/or suggest “...determining, via the primary station, an estimated level of interest by users of secondary stations...indicating, via a secondary station of the plurality of secondary stations, the estimated level of interest by transmitting a predetermined signal in a preselected one of the plurality of random access slots, the estimated level of interest based on at least a threshold value,” as recited in independent Claim 1.

At page 4 of the present Office Action, the Examiner stated that Shinnarajah discloses “the primary station estimates the level of interest from a number of transmitted indications,” and refers to paragraph [0091] of Shinnarajah for support. However, paragraph [0091] of Shinnarajah states:

“The access network waits for response from member subscriber stations before channel assignment. Such an alternative is required for services, requiring the access network to know whether each subscriber station participates. Additionally, the response allows the access network to decide, whether to assign a shared channel or a dedicated channel for the multicast content. When a decision to assign a dedicated channel to each subscriber station is made, the response prevents the access network from assigning a dedicated traffic channel to a non-participating subscriber station.”

Once again, it is not clear where paragraph [0091] refers to or even implies an estimated level of interest. There is no indication of conducting an “estimate” in paragraph [0091].

At page 4 of the present Office Action, the Examiner stated that Shinnarajah discloses “the primary station sets a threshold level for determining the transmission mode of the service,” and refers to paragraph [0126] of Shinnarajah for support. However, paragraph [0126] of Shinnarajah states:

“Because the multicast service traffic channel is assigned individually as in a point-to-point call, any method known for a point-to-point traffic channel assignment can be used. Specifically, the access network knows when each of the interested subscriber stations will be monitoring the paging channel.”

Once again, it is not clear where paragraph [0126] refers to or even implies an estimated level of interest based on a threshold value. There is no indication of conducting an estimate or reference to a threshold value in paragraph [0126].

At page 4 of the present Office Action, the Examiner stated that Van Heeswyk also discloses “the primary station sets a threshold level for determining the transmission mode of the service,” and refers to Column 11, lines 20-35 of Van Heeswyk for support. Such portion states:

“FIG. 5 shows a flowchart of the process discussed above. At step 200, the selected number of SNR levels reported by a subscriber station are received and examined. At step 204, the variation in these SNR levels is determined. At step 208, a determination is made as to whether the variation exceeded a selected level. If the variation did not exceed the selected level, a determination is made at step 212 as to whether the power control rate is already at a predefined minimum rate. If the power control rate is already at this predefined minimum rate, the process recommences at step 200. If, at step 212, it is determined that the power control rate is not at the predefined minimum rate, the power control rate is reduced at step 216 wherein the base station informs the subscriber station that it should decrease its power control rate.”

It is true that Van Heeswyk refers to a selected level, which may be interpreted as a threshold value. However, Van Heeswyk does not base the threshold value on an estimated level of interest by users of secondary stations, as clearly recited in the amended Claims of the present disclosure. Instead, such portion of Van Heeswyk bases the threshold value on SNR levels. SNR levels are not equivalent to estimated levels of interest of users. In fact, neither Van Heeswyk, nor Shinnarajah speak of “estimated levels” or of any type of “estimation” means.

In contrast, paragraph [0022] of Applicants published application (2008/0267136) states:

“In order to be able to **estimate the number of secondary stations** interested in receiving a service the primary station PS transmits periodically a programme guide which includes a list of services and maps a respective plurality of access slots to different services. To avoid confusion each combination of one time slot and one signature is contained in not more than one of the pluralities of access slots.” (emphasis added)

Additionally, paragraph [0028] of Applicants published application

(2008/0267136) states:

“In general the primary station (or network controller) would not be able to count the number of terminals transmitting the predetermined signal in the same access slot. However, in some situations it would be possible for the network to estimate this number from the number of correlation peaks received in a given access slot, the arrival of the peaks being varied due to the different propagation times of the respective signal, or from the level of received energy in the access slot, assuming that a power versus distance from primary station algorithm is used to control the transmission power by a respective secondary station. This information may be used to refine the estimated count.” (emphasis added)

Paragraph [0033] of Applicants published application (2008/0267136) states:

“Block 50 relates to the primary station (or network controller) determining if the estimated number exceeds the threshold value set. If the answer is negative N, the service is transmitted on a point-to-point basis as indicated by block 52. If, however, the answer is positive Y, the service is transmitted on a point-to-multipoint basis as indicated by block 54.” (emphasis added)

Paragraph [0039] of Applicants published application (2008/0267136) states:

“The primary station then divides the counted number of indications by the value of the probability in order to arrive at an estimate of the level of interest. This option can result in a lower level of interference and can result in a more accurate estimate of level of interest.” (emphasis added)

Therefore, in the present disclosure and as recited in the amended Claims, an “estimation” is adequate for counting the number of secondary users (i.e., level of interest of secondary users), the estimate based on a threshold value.

Thus, the applied combination of Van Heeswyk and Shinnarajah does not teach and/or suggest the features recited in the present amended Claims.

Independent Claims 18, 23, and 24 include the same or similar limitations to those of Claim 1, and are allowable over the prior art of record for at least the same reasons presented above for the patentability of independent Claim 1.

Accordingly, the withdrawal of the rejection under 35 U.S.C. §103(a) with respect to Claims 1, 18, 23, and 24 and allowance thereof is respectfully requested.

Dependent Claims 2-8, 11-16, and 19-21 are allowable over the prior art of record for at least the same reasons presented above for the patentability of independent Claims 1, 18, 23, and 24. Additionally, dependent Claims 2-8, 11-16, and 19-21 contain further distinguishing patentable features. Accordingly, the withdrawal of the rejection under 35 U.S.C. §103(a) with respect to dependent Claims 2-8, 11-16, and 19-21, and allowance thereof are respectfully requested.

Claim 17 was rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Van Heeswyk and Shinnarajah, and further in view of Cooper et al. (U.S. Application No. 2002/0069038). Applicants respectfully traverse the rejection.

Dependent Claim 17 is allowable over the prior art of record for at least the same reasons presented above for the patentability of independent Claim 1. Additionally, dependent Claim 17 contains further distinguishing patentable features. Accordingly, the withdrawal of the rejection under 35 U.S.C. §103(a) with respect to dependent Claim 17, and allowance thereof are respectfully requested.

In view of the foregoing, it is respectfully submitted that all the claims pending in this patent application are in condition for allowance. Reconsideration and allowance of all the claims are respectfully solicited.

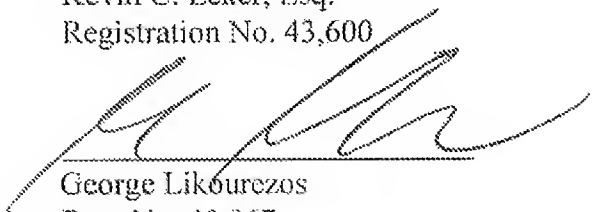
If, however, the Examiner believes that there are any unresolved issues requiring adverse final action in any of the claims now pending in the application, it is requested that the Examiner contact the applicant's attorney, so that a mutually convenient date and time for a telephonic interview may be scheduled for resolving such issues as expeditiously as possible.

In the event there are any errors with respect to the fees for this response or any other papers related to this response, the Director is hereby given permission to charge any shortages and credit any overcharges of any fees required for this submission to Deposit Account No. 14-1270.

Respectfully submitted,

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